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4/11/00

ORIGINAL
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
HARRISBURG, PA

APR 10 2000

ANTHONY C. BRENEISER,

Plaintiff

v.

CHARLES J. ALIANO, WILLIAM
BRENNAN, WILLIAM GREGORY, CHUCK
BAUER and CLEM NAYLOR,

Defendants : NO. 1:00-CV-0278

MARY E. D'ANDREA, CLERK
Per *[Signature]*
Deputy Clerk

JUDGE WILLIAM W. CALDWELL

mag J. Imyer

MOTION TO DISMISS ON BEHALF OF
DEFENDANT, CHARLES ALIANO

Defendant, Charles Aliano, through his attorneys, Kreder, Brooks, Hailstone & Ludwig, hereby requests the Court to dismiss the Plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) and cites the following reasons therefor:

1. Plaintiff brought a pro se complaint alleging that his civil rights were violated after he escaped from the Susquehanna County Prison and was returned thereto.

2. At all times material hereto, Defendant, Charles Aliano was the District of Susquehanna County.

3. Plaintiff's complaint alleges, inter alia, that Charles Aliano misused his powers by bringing multiple prosecutions against the Plaintiff and Plaintiff's wife as a result of the escape.

4. The complaint further alleges that as part of the prosecution of Plaintiff, Aliano encouraged persons to write false statements about the Plaintiff.

5. Plaintiff's complaint against District Attorney Aliano is barred by absolute prosecutorial immunity.

WHEREFORE, it is respectfully requested that Plaintiff's complaint be dismissed.

KREDER, BROOKS, HAILSTONE & LUDWIG

BY: Michael J. Donohue
Michael J. Donohue, Esquire
Attorneys for Defendants
I.D. #25906

Suite 200
220 Penn Avenue
Scranton, PA 18503
(570) 346-7922

CERTIFICATE OF SERVICE

AND NOW, this 5TH day of April, 2000, I, Michael J. Donohue, a member of the firm of Kreder, Brooks, Hailstone & Ludwig, hereby certify that I have this day served the within Motion to Dismiss, by depositing a copy thereof in the United States Mail, postage prepaid, at Scranton, Pennsylvania, addressed to the party or attorney of record as follows:

Anthony C. Breneiser
Susquehanna County Prison
7 Ellsworth Drive
Montrose, PA 18801

KREDER, BROOKS, HAILSTONE & LUDWIG

BY: _____


Michael J. Donohue